

**MINUTES OF MEETING
BAYSIDE IMPROVEMENT AND BAY CREEK
COMMUNITY DEVELOPMENT DISTRICTS**

A Joint Regular Meeting of the Boards of Supervisors of the Bayside Improvement Community Development District and Bay Creek Community Development District was held on **Monday, May 21, 2012 at 2:00 p.m.**, at the **Pelican Landing Community Center, 24501 Walden Center Drive, Bonita Springs, Florida 34134.**

For Bayside Improvement CDD:

James Patterson	Chair
Walter McCarthy (via telephone)	Vice Chair
Jack Lienesch (via telephone)	Assistant Secretary
Bernie Cramer	Assistant Secretary
T. Marvin Hancock	Assistant Secretary

For Bay Creek CDD:

Frederick McAuley	Chair
Nelson Glueck	Vice Chair
James Janek	Assistant Secretary

Also present were:

Chuck Adams	District Manager
Cleo Crismond	Assistant Regional Manager
Dan Cox	District Counsel
Jim Murphy	PLCA Liaison
Bob Sontag	Palm Colony Representative
Bill Ribble	Member, The Colony Residents Council
Robert Heil	Resident
Dave Clifford	Resident

FIRST ORDER OF BUSINESS

Call to Order/Pledge of Allegiance

Mr. Patterson called the meeting to order at 2:00 p.m., and all present recited the Pledge of Allegiance.

SECOND ORDER OF BUSINESS

Roll Call

Supervisors McAuley, Janek and Glueck were present, in person, for Bay Creek CDD. Supervisors Pritt and Huffman were not present. Supervisors Patterson, Cramer and Hancock were present, in person, for Bayside Improvement CDD. Supervisors Lienesch and McCarthy were attending via telephone.

THIRD ORDER OF BUSINESS

Public Forum

Mr. Patterson asked if any members of the public wished to address issues on the agenda.

With regard to the drainage situation, Mr. Jim Murphy, Pelican Landing Community Association (PLCA) Liaison, reported that a resolution was adopted by the PLCA Board, which will be forwarded to the CDDs once it is executed by the officers. The resolution requests that all catch basins and culverts in Pelican Landing be maintained and operated by the CDD. A copy of the survey, along with a letter from Mr. David Caldwell stating that the CDDs are obligated to maintain them, was presented to the Chairs.

Mr. Murphy stated that, at the last meeting, the PLCA Board was asked to inspect the camera lenses and security along the Main Gate at PLCA. Photographs taken with the camera were presented to the Boards to assist in their decision whether to hire a lighting engineer, for security. Supervisor Patterson indicated that this item will be discussed later in the meeting.

Mr. Robert Heil, a resident, advised that he would like to discuss his 17-month effort to have the sidewalk illumination lights, located at the Central Fountain feature, repaired. He indicated that phone calls were not returned and a safety complaint was filed; however, there was no follow up. Mr. Heil feels there are issues with regard to resident involvement.

JOINT MEETING ITEMS

FOURTH ORDER OF BUSINESS

Staff Reports: Engineer

There being no report, the next item followed.

FIFTH ORDER OF BUSINESS

Consideration of Resolutions Approving the Districts' Proposed Budgets for Fiscal Year 2013 and Setting a Public Hearing Thereon Pursuant to Florida Law

Mr. Adams explained that Florida law requires approving a proposed budget prior to June 15 and setting a public hearing date for the adoption of the budget prior to September 15. A budget workshop will be held, in July, where the budget will be reviewed, line by line, giving the Boards an opportunity to discuss each of the appropriation revenue sections and make adjustments to the assessment levels. Mr. Adams stated that the Boards are being asked to consider the resolutions setting the public hearing and directing Staff to distribute the proposed budget to the local municipalities, in accordance with Florida law, and to post it on the website.

- **Resolution 2012-7, *Bay Creek Improvement Community Development District***

On MOTION for Bay Creek by Mr. McAuley and seconded by Mr. Glueck, with all in favor, Resolution 2012-7, Approving the District’s Proposed Budget for Fiscal Year 2013 and Setting a Public Hearing for August 27, 2012 at 2:00 p.m., at this location, was adopted.

- **Resolution 2012-8, *Bayside Improvement Community Development District***

On MOTION for Bayside Improvement by Mr. Hancock and seconded by Mr. Cramer, with all in favor, Resolution 2012-8, Approving the District’s Proposed Budget for Fiscal Year 2013 and Setting a Public Hearing for August 27, 2012 at 2:00 p.m., at this location, was adopted.

SIXTH ORDER OF BUSINESS

Lake Maintenance Activities Report - *Bill Kurth*

Mr. Adams stated, for the record, that Mr. Kurth was not able to attend the meeting due to a family emergency; however, a summary was provided, which was distributed to the Board.

Mr. Adams reported that Mr. Kurth continues to work on algae, which has become an issue, over the last few weeks, due to fertilizer activities. Turf and tree fertilizers are being applied, prior to the June 1 deadline. According to Lee County ordinance, those fertilizers may not be applied between June 1 and October 1 of each year. Recent sporadic rain events have washed nutrients into the water bodies, causing the algae.

Mr. Adams stated that the majority of the lakes responded very well to the sonar treatments, which are primarily for submersed aquatic growth. Mr. Kurth is still working on Lakes F1 and F16. Lake F1 has seen positive results from treatment but Lake F16 has not. A mechanical removal of the slender spikerush was performed a week or so ago, followed by a sonar treatment, which should produce a quicker, more efficient result.

Lake E7 continues to have Bladderwort and resistant algae issues and is being treated accordingly. Mr. Adams recalled previous direction from the Boards to cease chemical treatments on Lake E1. They are now seeing the residual results of the previous chemical treatments and the lake is very clean. Mr. Adams stated that he and Mr. Kurth would like to have the Boards consider allowing Staff to begin minimal sonar treatments, as there are sporadic amounts of slender spikerush within that pond and sonar treatments will allow them to finish cleaning the lake.

Mr. Kurth and Mr. Adams discussed several options for “resetting” the lake. They feel that using enzyme packs and a phosphorous binding treatment will be very beneficial. A proposal will be submitted to the Boards. The addition of 15,000 to 20,000 aquatic plants will also be proposed, to assist with removal of nutrient loading and keeping out the growth.

Mr. Adams referred to a map, pointing out where fertilizers are washing into the dry retention area, overflowing into the control structure and into two catch basins, which tie into Lakes E1 or E2. He feels this is the cause of the issues with Lake E1. Mr. Adams indicated that he would like the District Engineer’s opinion on what can be done with the control structure, using absorbency pads that will pull out the phosphorous and nitrogen before entering the catch basins. He discussed a system used in Gateway, which would be very beneficial. He will review that control structure with Mr. Kurth and Mr. Barraco and report back.

Mr. Adams asked the Boards to authorize a sonar treatment for Lake E1 to remove the remainder of the slender spikerush. Mr. McAuley noted an issue on three of the lakes resulting from sonar use. Mr. Adams explained that sonar is a submersed aquatic chemical which goes into the plant, is absorbed into the root and kills the plant to the root. As the root is released, the plants float to the top. Mr. Adams noted that hydrothol, which is a burning agent, can be used to treat the plant and allow it to degasify so that it drops back down and decomposes. Mr. McAuley discussed the poor condition of Lake E2, Lake D7, in Costa del Sol, and Lake D3, in Southbridge, and asked if they can be raked. Mr. Adams discussed the pros and cons of raking

the lakes. He recommended applying a hydrothol treatment on the three lakes. Within a week, the plant material will drop down.

Mr. Cramer recalled Mr. Sontag's discussion, at the last meeting, on behalf of Palm Colony. A number of other residents contacted Mr. Cramer and Mr. Sontag regarding the lake. Mr. Cramer feels there is a drainage problem in the golf storage areas alluded to by Mr. Adams. The Palm Colony residents would like Mr. Adams to consider the possibility of using one of the smaller lakes as a test.

On MOTION for Bay Creek by Mr. Glueck and seconded by Mr. Janek, with all in favor, authorizing Staff to proceed immediately with applying a sonar treatment to Lake E1 was approved.

On MOTION for Bayside Improvement by Mr. Hancock and seconded by Mr. Patterson, with all in favor, authorizing Staff to proceed immediately with applying a sonar treatment to Lake E1 was approved.

Mr. Patterson noted a six-foot wide area around the perimeter of Lake A-10, where plant material has surfaced to the top, and requested that this lake be treated. Mr. Adams recalled that, when the contract was awarded to LakeMasters, the monthly, prorated budgeted amount for treating the lakes was higher for the month of May, in order to complete a sonar treatment program prior to the rainy season. As a result of that treatment, the plant material is rising to the top of the lakes. Mr. Adams indicated that a combination of rain and hydrothol will knock the material back down.

SEVENTH ORDER OF BUSINESS

Results of Water Quality Testing – April

- **Fertilizer Use on Golf Courses – May 2012**

Mr. Hancock reported that a new chart was created for this meeting to provide a better idea of what is occurring in specific lakes. Limited data was available for Palm Colony and Lake E1, as testing was only completed for two months. It was noted that the amount of phosphorous increased dramatically.

Mr. Hancock indicated that the small lake at the entrance to Las Palmas is saturated with algae. A Las Palmas Board Member was asked to contact their landscape company to obtain the Certificate of Best Management Practices. Mr. Hancock advised that every landscape company should have someone who has gone to school and someone on site. He feels if the landscapers know that the Boards are requesting their Certificates of Best Management Practices, they may produce better results.

Mr. Hancock explained that he obtained a detailed schedule of The Colony's fertilizer applications since January, 2011, as well as those for Pelican Nest, and the information was used to create the blue vertical lines on the golf course charts. Mr. Hancock distributed a memo regarding fertilizer use on golf courses – May 2012, for inclusion in the meeting minutes.

EIGHTH ORDER OF BUSINESS

Discussion: Water Quality Analysis Proposal

Mr. Adams reported that Dr. Langland, of the University of Florida (UF), indicated that he intends to bring the team together in June to create a program to analyze the Districts' results. The team will include a soil specialist and a practical applications person. On site conditions will be reviewed, as well as data accumulated over the years.

Mr. Adams indicated that Mr. McCarthy provided contact information for a professor at MIT with the necessary expertise; however, the professor advised Mr. Adams that she will not be able to assist them and was not able to provide any referrals. Mr. Adams stated that, if Dr. Langland does not appear to be moving forward in a few weeks, he would like to contact FGCU to inquire whether they have anyone who can evaluate the data. Mr. Patterson and Mr. Hancock asked Mr. Adams not to wait to contact FGCU.

NINTH ORDER OF BUSINESS

Update: Potential Refinancing Activities

Mr. Adams reported on his discussions with an investment banker regarding private placement. He explained that the cost of issuance of a bond refinancing, in the public market, would eliminate their savings. The investment banker indicated to Mr. Adams that he has had a great deal of difficulty getting banks interested in smaller deals and the only bank showing interest was PNC Bank. Mr. Adams was given a contact in PNC's Orlando office; however, PNC was not interested, given the small amounts of the bonds. Mr. Adams stated that he is

finding that most banks do not wish to lend money to CDDs, regardless of their creditworthiness or stability. Some larger banks have a moratorium on CDD lending. Mr. Adams will continue to pursue potential refinancing and will report back if any interest is shown.

Mr. Cramer noted that an officer of JP Morgan Chase recently indicated that the bank is expanding into the Bonita area and they are very interested in discussing potential refinancing opportunities. The officer's contact information was provided to Mr. Adams.

TENTH ORDER OF BUSINESS**Consideration of Proposals Received for Entry Landscape Material Review and Replacement Plan**

- **Architectural Land Design Incorporated**
- **Hole Montes, Inc.**
- **JRL Design Studios**
- **Land Architects, Inc.**
- **RSM Design, Inc.**

Mr. Adams recalled the request for Staff to obtain proposals for entry landscape material review and replacement. The proposal from JRL Design Studios, historically the landscape architects for the Districts, was \$4,800. The same scope of services was provided to five other firms, with four responding, and the following dollar amounts were proposed: Architectural Land Design, Incorporated, \$7,300; Hole Montes, Inc., \$6,475; Land Architects, Inc., \$4,350 and RSM Design, Inc., \$7,500. Mr. Adams noted that the lowest bidder was Land Architects, Inc.

After reviewing the proposals, Mr. Lienesch noted that some included going out for a bid package. He asked if that was something that JRL Design included, on the Greenview site. Mr. Adams indicated that they did not. He stated that the same scope of services provided to JRL was used for his request to the five other firms. Mr. Lienesch asked if there are drawings. Mr. Adams replied affirmatively, noting that the original plans were prepared by JRL and those files are the property of the Districts. In response to a question from Mr. Lienesch, Mr. Adams indicated that the irrigation analysis and relocating heads will be performed by Staff and was not included in the pricing.

Mr. Patterson expressed his concern regarding spending money on the entry when there are plans to take on additional culvert maintenance, to provide flowers and irrigation water at the

entrances of those neighborhoods that are currently without, and increased costs for next year's budget. He was in favor of the original plan, proposed by Mr. Lienesch and the Garden Club, to replace plants as necessary, with no enhancements. Mr. Adams reminded the Boards of the commitment made two years ago for perimeter landscaping on Spring Creek Road.

Mr. McAuley felt that additional work on the entry would be a waste of money. He stated replacement of dead plants could be accomplished with existing plant replacement monies.

On MOTION for Bay Creek by Mr. Janek and seconded by Mr. Glueck, with all in favor, tabling the Entry Landscape Material Review and Replacement Plan to a later date was approved.

On MOTION for Bayside Improvement by Mr. McCarthy and seconded by Mr. Cramer, with Mr. Patterson and Mr. Hancock in favor and Mr. Lienesch dissenting, tabling the Entry Landscape Material Review and Replacement Plan to a later date was approved. (Motion passed 4-1)

ELEVENTH ORDER OF BUSINESS

Consideration of Facilities Management Agreement Between PLCA and the District

Mr. McCarthy requested that this item be tabled to the next meeting, as the agreement was not included in the agenda packages.

Mr. Cox indicated that the issue is replacement versus repair and maintenance and the responsibility for replacement. Mr. Murphy stated that the PLCA Board could take responsibility for replacement. Mr. Cox advised that it is now a matter of preparing Exhibit A to the agreement and presenting it to the Boards, at the next meeting.

Mr. Murphy referred to Item D., of the Facilities Maintenance Agreement, which states, "The Association is requesting that the Districts maintain the drainage facilities located on its common areas." He indicated that a resolution was adopted by the PLCA stating that they wish the Districts to maintain and operate all drainage catch basins and culverts within Pelican Landing. Mr. Patterson noted that, two months ago, the Boards voted to take care of the catch

basins, mainly in the condo areas with a private homeowners association. The only issue with regard to operation and maintenance is for the catch basins outside of those areas.

Mr. Murphy distributed a document, which Mr. Adams advised only grants an easement. Mr. Cox explained the meaning of a dedication on a plat. He advised that the CDD Boards must act affirmatively to accept the maintenance responsibility, which was not done for the PLCA-owned roadways. He noted that this discussion took place several months ago and there was a disagreement regarding ownership of those roads. Now that the disagreement is resolved, they are prepared to move forward.

Mr. Cox reported that an agreement was provided to Mr. Adams, effectuating the neighborhood association's maintenance of the association-owned drainage facilities. Street sweeping and the flowers around the monument signage can also be added.

Mr. Murphy discussed three items that he felt were omitted from the agreement. He stated that the roadways are to be maintained by the CDDs; the roadways include the posts and cable systems and roadway berms. Mr. Cox advised that these Boards have not agreed to accept the posts and cable systems. Mr. Murphy stated that the roadway perimeter berms should also be added.

Mr. Patterson indicated that the Boards will vote on the agreement at the next meeting and determine when to take on the responsibility. They feel it would be best to begin at the start of the next budget year. Proposals accepting this responsibility will be presented at the next meeting.

Mr. McAuley questioned Mr. Murphy's addition of three items to the agreement. Mr. Murphy indicated that the 1998 engineering study mentions all of that work. Mr. Cox clarified that, in 1998, it was anticipated that the roads would be owned by the CDDs. This community decided that they wanted the roads to be owned by a private entity to eliminate public access. The engineering reports were subsequently modified to remove the roadways from the CDDs' responsibility. Mr. Cox advised that, regardless of what the engineers said in 1998, bond funds were not used to build those roadways. Now they are looking at which sections of those roadways the PLCA wishes to maintain. Both Boards have been fairly consistent in their position that they do not want the posts and cable systems. Mr. Murphy indicated that the posts and cables are maintained by the CDDs and they have taken care of any replacements. The

roadway berms are already covered; the CDDs have always maintained them. Mr. Patterson requested that Mr. Murphy identify all areas where there is post and cable, for the next meeting.

Mr. Janek noted that, to this date, there is no document outlining what the PLCA is requesting from the Boards. He stated that the Boards need to know the financial responsibility and any sovereign immunity issues in order to determine how to proceed.

TWELFTH ORDER OF BUSINESS

Approval of April 23, 2012 Joint Regular Meeting Minutes

Mr. Patterson presented the April 23, 2012 Joint Regular Meeting Minutes and asked for any additions, corrections or deletions.

The following changes were made:

Lines 36 & 115: Insert “Stepanick” after “Dale”

Line 253: Insert “Peter Apostle” after “Mr.”

Line 259: Insert “Lienesch” after “Mr.”

Line 268: Replace “Fork” with “Florida”

Line 523: Change “McCarthy” to “McAuley”

Line 547: Change “row” to “roll”

Line 551: Add “Glueck” after “Mr.”

Line 669: Change “Giese” to “Geist”

Line 672: Add “poles” after “extra”

Line 680: Change “Row” to “Roll”

On MOTION for Bay Creek by Mr. McAuley and seconded by Mr. Glueck, with all in favor, the April 23, 2012 Joint Regular Meeting Minutes, as amended, were approved.

On MOTION for Bayside Improvement by Mr. Hancock and seconded by Mr. Cramer, with all in favor, the April 23, 2012 Joint Regular Meeting Minutes, as amended, were approved.

THIRTEENTH ORDER OF BUSINESS

Old Business

There being no old business, the next item followed.

FOURTEENTH ORDER OF BUSINESS

Other Business

a. Action Items

The Board discussed the status of the "ACTION/AGENDA ITEMS". Ms. Crismond noted that Lake E1 should be added to Item 1, which will remain on the list, along with Items 2, 3, 4, 6, 7, 8, 9, 11, 12 and 16. Items 5, 10, 13, 14, 18, 19, 20, 21 and 22 will be deleted. Mr. Adams noted that Item 9 is for Mr. Kucera. He asked Ms. Crismond to follow up with him regarding obtaining a supply list from flower growers to supply to the Garden Club for type. Mr. Adams advised that, for Item 16, Lake E3 should be E1 and E2. With regard to the lake and wetland contract, Item 17, Mr. Adams suggested making this an agenda item for discussion at the June meeting.

Mr. Glueck reported that a Roll Dock Ad Hoc Committee was formed to determine better utilization of the facilities. The committee wants to rename the area and is asking for \$615 to replace the existing sign with one reading "Bay Creek Fishing Dock".

On MOTION for Bay Creek by Mr. Glueck and seconded by Mr. McAuley, with all in favor, \$615 for a new sign that reads "Bay Creek Fishing Dock" was approved.

On MOTION for Bayside Improvement by Mr. Hancock and seconded by Mr. Patterson, with all in favor, \$615 for a new sign that reads "Bay Creek Fishing Dock" was approved.

FIFTEENTH ORDER OF BUSINESS

Staff Reports

a. Attorney

Mr. Cox recalled previous discussion regarding the nutrient numeric thresholds and how the rule does not apply to South Florida. The consent agreement that went into the development of the rule also includes provisions that the rule for South Florida must be presented by May 30 for public comment, with the goal for adoption being January 31, 2013. There is no indication that the deadline for the Department of Environmental Protection (DEP) to present the proposed rule was extended and Mr. Cox has not seen a proposed draft. Once the draft is received, copies

will be forwarded to Mr. Adams, for dissemination to the Boards. Discussion will be held at the next meeting.

b. Manager

i. Irrigation High User Report

****This item, previously 15b. iii., was presented out of order.****

- **Bayside Improvement CDD**
- **Bay Creek CDD**

Mr. Cramer recalled a request from the PLCA, about a year ago, to provide supplemental water to the tennis court facility. After a review by Mr. Adams, the request was approved. Mr. Cramer advised that they are now overusing by about 100,000 gallons of water per month.

Mr. Murphy indicated that a five-month study was recently completed for the tennis courts. An expert was brought in during the first week of May. Testing was done on moisture and conditions. Mr. Murphy expects to receive the report shortly. He noted that the PLCA Board approved monthly evaluations of the tennis courts, by an independent expert. The evaluations will take place from October 1, 2012 through April 30, 2013. This process will assist in determining how to properly maintain the courts. The amount of water being used will be evaluated, as well.

Mr. McAuley noted the monthly overuse by The Sanctuary, WCI, The Tides and The Colony Clubhouse and recommended asking them to cut back on their water usage.

ii. Unaudited Financial Statements as of April 30, 2012

****This item, previously 15b.i., was presented out of order.****

Mr. Patterson presented the Unaudited Financial Statements as of April 30, 2012. He inquired about the funds budgeted for the plant replacement program for The Colony. Mr. Adams indicated that the sprayouts to kill the existing turf have begun and new turf will be planted in June.

iii. Savings & Money Market Account/Investment Snapshot as of 5/14/12

****This item, previously 15b.ii., was presented out of order.****

This item was included for informational purposes.

iv. Number of Registered Voters as of April 15, 2012

- **Bayside Improvement CDD: 2,323**
- **Bay Creek CCD: 741**

v. NEXT MEETING DATE: June 25, 2012 at 2:00 P.M.

The next meeting is scheduled for June 25, 2012.

vi. Operations Report

Ms. Crismond had nothing further to report. With regard to the plantings in Lake E1, Mr. Hancock expressed his concern that the plants currently being used are slow growing. Mr. Adams advised that there will be a significant amount of spikerush along the entire perimeter, with beds of pickerelweed, arrowhead and cana lily, for diversity.

SIXTEENTH ORDER OF BUSINESS

**Audience
Request**

Comments/Supervisors'

Mr. Lienesch asked if it would be acceptable to resurrect the entry landscaping plans discussed over the past few months, obtain written recommendations from the Garden Club, compare them with the allowable plant replacement budget and present a proposal for the Boards to discuss. Mr. Patterson replied affirmatively.

Mr. Heil explained that he and his wife relocated from The Colony to Cassia Court in January, 2011. They began walking their dogs around the fountain in the evening and noticed that two sidewalk illumination lights were not working. In addition, two of the column lamps were covered with vegetation and not working. In the fall of 2011, Mr. Heil was advised by Ms. Nancy Page that the District was responsible for the lights. Mr. Heil gave Ms. Page a map indicating their location. Ms. Page gave the map to the District and requested to have them replaced. About three weeks later, the lamps in question were identified with orange ribbons. Street lamps throughout Pelican Landing were also identified with orange ribbons. Eight weeks later, Mr. Heil left a message with the Field Office, asking about the plan to get the lights working but no return call was received. Six weeks later, a security complaint was filed. Four weeks after, Mr. Heil left another message with the Field Office, describing the situation. He wanted to know that someone was interested in the problem. Again, no return call was received.

In late April, Mr. Heil met with Mr. Cramer to review the area. Mr. Heil also called Ms. Crismond, who returned his call. In the second week of May, the sidewalk illumination lights were repaired; however, the two column lights are still covered with vegetation and are not working. Mr. Heil asked if there is a master operating plan to identify tasks, when scheduled and

by whom, and party responsible for ensuring that the tasks are completed. He indicated that now, none of the lamps are working.

Mr. Glueck asked Mr. Heil to show him the lights that are out, after the meeting. He will verify them tonight and resolve the problem. Ms. Crismond advised Mr. Heil to call her on her cell phone any time he does not receive a response from the Field Office within 48 hours. Mr. Patterson asked Ms. Crismond to ensure that she is getting the necessary feedback when repairs are not performed according to her expectations.

Mr. Cramer felt that Mr. Heil had a valid point. He stated that there is a communication problem within the community between the CDD Management team and security personnel. Mr. Cramer advised that there may be an issue with how maintenance items are reported. He stated somewhere there is a relay problem, or some type of problem, that must be identified. Mr. Glueck noted that sometimes, on Thursdays, when the pool maintenance is performed, the switches are turned off and not turned back on.

Mr. Bill Ribble, a member of The Colony Residents Council, recalled that in July, 2010, all of the plantings along Coconut Road and along Spring Creek Road were reviewed. An architect was present, as well. By July 26, they had a full set of drawings and a plan to correct the situation. In August, the community was advised that funding would be available in 2011 and 2012 to complete the project. In the first week of August, the first plantings were installed along Coconut Road. After those plantings were installed, the project was halted, for various reasons. Mr. Ribble asked the Boards to review this initiative. Mr. Patterson noted his concern, at the time, with regard to the costs for Spring Creek. He recommended revisiting the project to determine how much should be spent.

Mr. Murphy stated, at Mr. Ribble's request, he drove to 24001 Addison Place, parked his vehicle, and watched the traffic drive by. Next door, he observed a clear view of Spring Creek Drive. Mr. Murphy noted that The Colony does not have a representative on the CDD Boards and feels this issue requires further review. Mr. Patterson felt more of a need to beautify the west side of the road than the east side; however, the northern portion of the east side needs work.

Mr. Ribble provided photographs of the area and advised that nothing has changed since July of 2010; in fact, it has probably gotten worse. He indicated that no fence in Pelican Landing looks like this one. Mr. Patterson agreed that it should be repaired.

Mr. Dave Clifford, a resident, noted that he put a lot of effort into photographing the entire area and made a presentation to the Boards. At the following meeting, the Boards approved spending about \$180,000. The residents were told that 50% of the work would be completed along Coconut Road, in 2011, and the balance, for Spring Creek Road, would be completed in 2012. Mr. Clifford stated that money was spent for an outside architect, for the review; the funds were allocated and approved but the work was not completed.

Mr. Patterson stated that, to his knowledge, the money was not put into the 2012 budget for Spring Creek Road. Mr. Clifford stressed that it was approved by unanimous vote. Mr. Patterson advised that there were issues of prioritization. A major investment had recently been completed along Coconut Road and there was not enough energy, at that time, on the part of the Boards, to proceed with Spring Creek. Mr. Clifford explained that with the new construction in The Colony, all of the traffic, the bulldozers and dump trucks are going up and down Spring Creek Road and the noise can be heard in Murano. He indicated that everything on Spring Creek Road, on Pelican Landing property, is dead and it must be replaced and it is the Boards' responsibility. Mr. Patterson noted that this is something that the Boards must address at the next workshop and funds must be made available to complete improvements.

SEVENTEENTH ORDER OF BUSINESS***Adjournment – Bay Creek***

The Bay Creek CDD meeting adjourned at 3:57 p.m.

BAYSIDE IMPROVEMENT ITEMS**EIGHTEENTH ORDER OF BUSINESS****Consideration of Irrigation Variance
Request: 25171 Bay Cedar Drive**

Mr. Adams stated that Ms. Rosemary Byard, Lot 15, Bay Cedar, Subdivision 15, is requesting that the Board consider giving her a higher allocation, as she has recognized that the gross square footage of her lot is 17,428 square feet. Mr. Adams explained that the allocations are made on a neighborhood basis, taking the plats by neighborhood, identifying the average lot size and fitting it into the schedule of square footage monthly allocation, adopted by the Board several years ago. In this particular case, the current allocation is 24,000 gallons per month, based upon properties up to 13,400 square feet. Mr. Adams referred to the six questions that

must be answered as part of the District's variance rule and stated, based upon the application of square footage to monthly allocation; Ms. Byard is currently not receiving the same benefit as other properties of similar size and nature. From Staff's perspective, in applying the District's rule, Ms. Byard qualifies for an increase in her monthly allocation to the next category, which allocates 36,000 per month for properties up to 20,000 gross square feet.

Mr. McCarthy, Ms. Byard's neighbor, stated that, after reviewing past irrigation usage reports, on a monthly basis, Ms. Byard usually marginally exceeds the 24,000 limit. Ms. Byard chooses to water twice per day, on Wednesdays and Saturdays. Mr. McCarthy indicated that the first step might be to suggest that she marginally reduce the amount of time that her sprinkler system runs.

Mr. McCarthy measured the square footage of Ms. Byard's lot and determined that it contains a gross square footage of 18,590, with 1,450 square feet being a conservation easement. The square footage, minus the conservation easement, is 17,140 square feet.

Mr. McCarthy had no objection to granting the variance; however, he asked that the same treatment be given to all others with the same size lot, irrespective of whether they go over the allocation. He stated that Lot 9, 25111 Bay Cedar Drive, has a net square footage of 17,991 square feet, which is larger than Mrs. Byard's and that property never went over the 24,000-gallon allowance. In fairness, the same rule should apply to this property. Lot 14, with a net square footage of 17,722 square feet, is owned by Mr. McCarthy's wife. Mr. McCarthy felt that the fact that an owner has not overrun should not be a factor in whether he receives an increased allowance if the rules are followed; the lot exceeds the threshold for a 24,000-gallon allowance and is at least equal in size to the one being granted a variance. Mr. McCarthy indicated that, if a variance is granted to Mrs. Byard, he will apply for one, as well. He will advise his neighbor, Mrs. Madden, that she may also wish to apply for a variance.

Mr. Adams reminded the Board that they have the right to request that someone employ better water conservation efforts; however, when applying the District's rule, under the variance procedure, Mrs. Byard had every right to request the variance and the square footage clearly dictates that she is not receiving the same level of benefit as many of her neighbors. Mr. Adams did not feel that the square footage of the conservation area along the back of her property equates to the difference between categories, which is roughly 4,000 square feet. He stated, by rule, Mrs. Byard qualifies for the variance.

Mr. Cox stated that, when the Board makes decisions as a public body, they review a case to determine how their policy applies to that case. When they set policy, they are acting as a legislative body. Mr. Cox advised that, when looking at a situation such as this, the District's rule specifies if there is a unique circumstance not caused by their own doing, which justifies a relaxation of the criteria, as long as it does not provide any special benefit that no one else has, the District is constrained to apply the policy, as it is written. He stated, in this circumstance, Mrs. Byard is justified in asking for the variance. Staff reviewed the criteria and the questions were answered correctly; thus, this is merely a formality.

Mr. McCarthy stated, for the record, that the gross square footage that he measured was 18,590. The conservation easement, as he measured, is 1,460 square feet, resulting in a net area of 17,140. He indicated that he is not saying that makes a difference, nor is he saying they should not vote in favor of the variance; he is saying they must be sure to treat everyone else in the same situation equally. Mr. McCarthy stressed that the fact someone overruns their irrigation allowance is not a reason to grant a variance; it is the criteria. Mr. Adams stated, to the extent that others come forward to apply for a variance and they meet the same criteria, the Board will treat them the same.

Mr. Cramer asked the percentage of residents that are in this situation. Mr. McCarthy stated there are four, out of 36 lots, in Phase II, that appear to be over 13,400 square feet, three of which are in excess of 17,000 square feet.

On MOTION for Bayside Improvement by Mr. Patterson and seconded by Mr. Lienesch, with all in favor, the irrigation variance request for 25171 Bay Cedar Drive was approved.

FOR BAYSIDE IMPROVEMENT:


Secretary/Assistant Secretary


Chair/Vice Chair

FOR BAY CREEK:


Secretary/Assistant Secretary


Chair/Vice Chair

ACTION/AGENDA ITEMS:

1. **ACTION ITEM:** Lake E-1 - 3,000 plants to be added in the spring – plantings last year did not survive
2. **ACTION ITEM:** Mr. McCarthy to look in county files to see if there is a plan that corresponds to what Mr. Barraco has
3. **ACTION ITEM:** Mr. Barraco to follow up with WCI regarding status of WCI looking into the records to help determine why the two (2) control structures do not match plans in SFWMD's files
4. **ACTION ITEM:** Mr. Kurth to follow up on grass carp permitting
5. **ACTION ITEM:** Mr. Barraco to continue to provide the status of certifications.
6. **AGENDA ITEM:** Mr. Adams to obtain a proposal from the experts at UF & possibly FGCU
7. **ACTION/AGENDA ITEM:** District Counsel to draft an agreement between the Districts and the PLCA for the operation and maintenance of the catch basins for the common roads and present to the Board for review
8. **AGENDA ITEM:** Lake Maintenance Activities Report – Bill Kurth
9. **ACTION ITEM:** Staff to obtain treatment options, other than chemicals, for presentation at a future meeting
10. **ACTION/AGENDA ITEM:** Mr. Adams to get an opinion from the District Engineer to see what can be done with the control structure, using absorbency pads that will pull out the phosphorous and nitrogen before they go into the catch basins. He will review the control structure in Gateway with Mr. Kurth and Mr. Barraco and report back.
11. **AGENDA ITEM:** Mr. Cox to discuss nutrient numeric thresholds and rule that applies to South Florida.